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Via Electronic Filing (ECF)

Honorable Michael H. Dolinger
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

**Re: *Pure Tech Systems, Inc. v Kemper Environmental Ltd., and Kemper
Indemnity Insurance Company***
Case No. 07cv7065 (RMB)

Dear Judge Dollinger:

We are writing on behalf of defendants, Kemper Environmental Ltd. and Kemper Indemnity Insurance Company ("Defendants"), to request a conference to discuss a certain outstanding discovery issue in this case.

A discovery cut-off date for this case is set for September 25, 2008. Discovery was originally set to close on March 3, 2008. However, the Court agreed to extend it to June 13, 2008, at which point the parties were to appear before the Court. At the June 13th conference, the Court agreed to extend the discovery cut-off date until September 25, 2008. This extension was granted to enable the parties to complete discovery. Specifically, Plaintiff agreed to produce outstanding additional documents shortly after the conference the extension was granted to permit Defendants time to analyze the documents and prepare for depositions. The additional time also allowed the Defendants to pursue non-party discovery from Aon Risk Services, Inc. ("Aon"). Defendants have aggressively pursued discovery from Aon. We are now in receipt of documents and are working with Aon to determine if they possess additional documents. Moreover, we will be seeking to conduct the deposition of Aon's representative.

Unfortunately, despite Defendants' repeated requests of Plaintiff for the documents and despite several promises that the documents would be received "shortly," Defendants only received Plaintiff's production of five banker boxes and three smaller boxes of thousands of pages of documents on August 22, 2008. This is over two months after Plaintiff claimed to have identified these documents and agreed to produce them.

Plaintiff's counsel requested that Defendants pay for copies of the documents because it was not in a position to cover these costs because Plaintiff owed legal fees. The Defendants agreed to cover these costs in the hopes of moving discovery forward. Plaintiff's counsel later informed Defendants, and the Court, during a July 8, 2008 conference call, that he would be meeting with Plaintiff to discuss withdrawal as counsel. Ultimately, on July 16, 2008, Plaintiff's counsel advised us that he had agreed to stay on. We understand that there was some delay while Plaintiff's counsel status was in flux. However, it has been nearly six weeks since that issue was resolved.

Defendants have been more than accommodating with regards to the production of these documents. However, these delays have prejudiced the Defendants' ability to prepare a defense. We can not properly review these additional documents and be prepared to depose Plaintiff prior to September 25, 2008.

We respectfully request a conference so that we may discuss seeking a sixty-day extension of the discovery cut-off date to make up for the time lost due to Plaintiff's delays.

Respectfully,



Allison B. Feld

cc: Sean Walsh, Esq.
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